

Attorney Docket No.: 02SKY103P-CON
Application Serial No.: 10/666,617

REMARKS

This is in response to the *Final* Office Action, dated September 23, 2005, where the Examiner has rejected claims 24-35 and 37-41. By the present amendment, applicant has amended claims 24, 27 and 29 to cure a minor informality and/or clerical mistake. After the present amendment, claims 24-35 and 37-41 are pending in the present application. Allowance of pending claims 24-35 and 37-41 in view of the amendments and the following remarks is respectfully requested.

A. Request for Withdrawal of Finality

In the Office Action dated September 23, 2005, the Examiner has finally rejected the claims on the basis of new grounds of rejection and a newly cited art. Applicant respectfully requests reconsideration and withdrawal of the finality of the rejection of the Office Action, dated September 23, 2005.

A good and sufficient reason why the present response is necessary and was not earlier presented is that an entirely new reference has been cited in the present final rejection, dated September 23, 2005 (37 CFR § 1.116 (c)). The new reference is U.S. Patent Number 6,529,743 to Thompson ("Thompson"), which is for the first time brought to applicant's attention by means of the present final rejection, dated September 23, 2005. The new reference, i.e., Thompson, was not cited in the present application prior to the instant final rejection.

In support of finality of the present Office Action, the Examiner states that applicant's amendment, in response to the first and non-final Office Action, necessitated the new ground(s) of rejection. However, applicant respectfully points out that in the first and non-final Office

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Action, the Examiner indicated that dependent claim 36 would be allowable if rewritten in independent form. As a result, applicant amended claims of the present application in conformity with the Examiner's suggestion. Now, apparently, the Examiner has withdrawn his previous indication of allowability and rejected the amended claims based on a new cited reference. Since Thompson is a reference upon which the Examiner has now relied, applicant believes that it would be manifestly unfair for the Patent Office not to consider applicant's arguments, which are necessitated due to the newly cited reference. As such, a good and sufficient reason exists, as required by 37 CFR §1.116(c), for considering applicant's present response and withdrawing the finality of the present Office Action.

B. Rejection of Claim 24-32 and 37-41 under 35 U.S.C. § 103(a)

The Examiner has rejected claim 24-32 and 37-41 under 35 U.S.C. § 103(a), as being unpatentable over Plotnik (USPN 6,873,608) ("Plotnik") in view of Thompson. Applicant respectfully disagrees.

Applicant hereby swears behind the effective filing date of Thompson, i.e. March 29, 1999, under 37 C.F.R. § 1.131. Under 37 C.F.R. § 1.131, the owner of the claimed invention may submit an appropriate declaration to overcome a reference. The showing of facts shall be such as to establish reduction to practice prior to the effective date of the reference, or conception of the invention prior to the effective date of the reference coupled with due diligence from prior to the effective date of the reference to a subsequent reduction to practice or to the filing of the application. See 37 C.F.R. § 1.131. Applicant respectfully submits that claims 24-32 and 37-41 are allowable over Plotnik in view of Thompson based on the following remarks.

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Pursuant to 37 C.F.R. § 1.131, attached is a declaration from Mark V.B. Tremallo, General Counsel, Vice President and Secretary of Skyworks Solutions, Inc., which is the owner of the above-referenced patent application, including a copy of an Innovation Disclosure. (Decl. ¶ 1.) The Innovation Disclosure describes the invention of the above-described patent application in Docket No. 99RSS133, entitled "Universal Cell Phone to USB Adapter", which was entered into the Innovation Disclosure Database, on February 12, 1999. (Decl. ¶ 3.)

The Examiner will note that the last page of the enclosed Innovation Disclosure clearly shows that the Innovation Disclosure was entered into the Innovation Disclosure Database, on February 12, 1999, which predates the effective filing date of Thompson, i.e. March 29, 1999. Applicant respectfully submits that the Innovation Disclosure evidences that the inventors conceived and were in possession of the presently claimed subject matter on February 12, 1999.

Further, the Innovation Disclosure and also the filing of the parent of the above-referenced patent application in the USPTO, on May 13, 1999, evidence that the invention of the above-referenced application was reduced to practice in the United States using due diligence after conception. (Decl. ¶ 4.)

Accordingly, applicant respectfully requests that the rejection of claims 24-32 and 37-41, as being unpatentable over Plotnik in view of Thompson, under 35 U.S.C. § 103(a), be withdrawn.

C. Rejection of Claims 33-35 under 35 U.S.C. § 103(a)

The Examiner has rejected claims 33-35 under 35 U.S.C. § 103(a), as being unpatentable over Plotnik in view of Thompson, and further in view of Colson (USPN 6,574,734) ("Colson").


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Applicant respectfully submits that claims 33-35 depend from claim 32, and should be allowed at least for the same reasons stated above in conjunction with patentability of claim 32.

D. Conclusion

For all the foregoing reasons, an early notice of allowance for claims 24-35 and 37-41 pending in the present application is respectfully requested. The Examiner is invited to contact the undersigned for any questions.

Respectfully Submitted;
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I hereby certify that this correspondence is being filed by facsimile transmission to United States Patent and Trademark Office at facsimile number (571) 273-8300, on the date stated below.

11/3/05

Date

Christina Carter
Name


Signature